

25320A

REMARKS

This is in response to the outstanding Office Action dated January 23, 2007. Applicants previously withdrew, without prejudice or disclaimer, claims 1-14 and 19-22. The claims now pending in the application are claims 15-18 and 23-37.

In the outstanding Office Action, the Examiner rejected claims 34 and 36 under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Specifically, the Examiner contends there is no support in the specification for the limitations "background granules". Applicants have amended paragraph [0019] of the specification to clarify the invention. Support for the revisions to paragraph [0019] of the specification can be found in U.S. Patent No. 5,405,647 to Grubka, which was incorporated by reference in its entirety [0019]. The Grubka reference refers to background granules as colored granules or prime granules which are of relatively higher cost and are applied to the portion of the shingle which will be exposed on the roof. To provide a color pattern of pleasing appearance the colored shingles are provided in different colors, usually in the form of a background colors or different shades of the background color. As such, the incorporated Grubka reference provides support in the specification for the limitation "background granules". Accordingly, Applicants respectfully request withdrawal of the rejection.

In the outstanding Office Action, the Examiner rejected claims 34 and 36 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner contends it is unclear what is meant by "background granules". As indicated above, Applicants have amended paragraph [0019] of the specification to clarify the invention. Support for the revisions to paragraph [0019] of the specification can be found in U.S. Patent No. 5,405,647 to Grubka, which was incorporated by reference

in its entirety [0019]. Accordingly, Applicants respectfully request withdrawal of the rejection.

In the outstanding Office Action, independent claims 15, 16 and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ingram (U.S. 3,084,059) in view of Kiik (U.S. 6,585,813).

Independent claims 15, 16 and 23 comprise structural limitations including depositing a first portion of granules onto the asphalt coated sheet, the first portion of granules containing substantially no anti-microorganism granules, and dispensing a second portion of granules over the first portion of granules, the second portion of granules comprising granules and anti-microorganism granules.

The Examiner asserts that Ingram reference teaches an asphalt-covered felt material which has applied aggregate particles applied thereto. The size distribution of the particles is selected such that less aggregate is needed to cover the asphalt covered felt. The aggregate size is selected according to a formula detailed in the specification. The only particles that will be present in the upper layer of asphalt is the largest aggregates with the majority of the aggregate being encapsulated within the asphaltic composition. However, as noted by the Examiner, Ingram fails to teach a shingle having deposited anti-microorganism granules.

To overcome the deficiencies in Ingram, the Examiner relies on Kiik. The Examiner asserts that Kiik teaches surface covering asphaltic roofing shingles with anti-microbial copper or tin particles. The particles are applied such that they may enter part-way into the asphalt, but desirably remain on the surface so that they remain active.

However, a combination of the Ingram and Kiik references, taken in a light most favorable to the Examiner, does not teach or disclose the invention as claimed in Applicants' independent claims 15, 16, and 23. A combination of the Ingram and Kiik references provides an asphalt-covered felt material having a surface covered with anti-microbial copper or tin particles.

However, the combination of the Ingram and Kiik references fails to teach or disclose a second portion of granules comprising both granules and anti-microorganism granules. Rather, in one embodiment of Kiik, one or more components having antimicrobial potential is applied to the surface of the surface covering building material by sprinkling or spraying the component(s) onto the surface while the filled asphalt portion of the roofing material is still hot [0031]. In another embodiment of Kiik, after the component(s) having antimicrobial potential is added to the surface of any portion of the material, granules may then be added to the surface [0035]. In this embodiment, the antimicrobial components may be pushed part-way through the surface of the material due to the weight of the later added granules and the force of the application as the later added granules are dropped onto the surface [0035]. In either embodiment of Kiik, the granules disposed onto the surface of the surface covering building material consist only of antimicrobial potential. There is simply no teaching or suggestion in Kiik of a second portion of granules comprising both granules and anti-microorganism granules as claimed in Applicants' independent claims 15, 16 and 23. Therefore, the invention as defined in Applicants' independent claims 15, 16 and 23, is patentable over the combination of Ingram and Kiik.

Dependent claims 24-30 depend on amended claim 15 and for at least this reason, are also patentable.

Dependent claims 17-18 and 31-37 depend on amended claim 16 and for at least this reason, are also patentable.

In view of the above remarks, Applicants have shown that the claims are in proper form for allowance, and the invention, as defined in the claims, is not taught nor disclosed by the applied references. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections of record, and allowance of all claims.